

CITY OF MUSKEGON

CITY COMMISSION MEETING

MARCH 8, 2005

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, March 8, 2005.

Mayor Warmington opened the meeting with a prayer from Pastor Sarah Johnson of the Word of Truth Outreach after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Bill Larson, Commissioner Chris Carter, Kevin Davis, Stephen Gawron, Clara Shepherd, and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Gail Kunding.

HONORS AND AWARDS: Mayor Warmington announced that City Manager Bryon Mazade was awarded a Certificate of Special Recognition by the Michigan Local Government Management Association.

2005-23 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Regular Commission Meeting that was held on Tuesday, February 22, 2005.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

B. Polling Place Change. CITY CLERK

SUMMARY OF REQUEST: To approve the request to modify the polling places as follows:

Precinct # 2 change to Steele School, 1150 Amity Avenue.

Oakview School use to house both precinct 2 and 3 in their gym. Turnout at the elections last year showed us that the location is too small for both precincts. Precinct # 3 will stay at Oakview School and we are recommending the use of Steele School for Precinct # 2.

Precinct # 8 change location to Nelson School, 550 W. Grand.

This precinct used to be at Craig School. Last year school officials informed us that because of the type of student that attends the school, the election process would be too distracting to students. We investigated other locations, but Nelson has a large gym for our use with a door adjacent to the gym. There is parking available close to the entrance to the polling place.

BUDGET ACTION REQUIRED: None

FINANCIAL IMPACT: None

STAFF RECOMMENDATION: Approve the changes as recommended.

C. Request to Fly the Irish Flag. CITY CLERK

SUMMARY OF REQUEST: The Muskegon Irish American Society is requesting permission to fly the Irish Flag outside City Hall on Thursday, March 17th through Wednesday, March 23rd to celebrate St. Patrick's Day.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval

D. SECOND READING: Zoning Ordinance Amendment for Residential Design Criteria. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2319 of Article XXIII (General Provisions) to amend the Residential Design Criteria language regarding minimum storage space in multi-family dwelling units decreasing the minimum required storage space from 15% to 10% in each multi-family dwelling unit.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to amend language regarding residential design criteria language.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their 2/10/05 meeting. B. Mazade, T. Johnson, S. Warmington, T. Michalski, B. Turnquist, J. Aslakson, and L. Spataro voted in favor of the change. B. Smith and T. Harryman were absent.

E. SECOND READING: Rezoning Request for Property Located at 1282 Arthur Street. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to rezone property owned by the City of

Muskegon, located at 1282 Arthur Street, from RM-1, Low Density Multiple Family Residential to R-1, Single Family Residential.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends approval of the request.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their 2/10/05 meeting. The vote was unanimous with T. Harryman and B. Smith absent.

F. Additional Taxicabs. CITY CLERK

Withdrawn per request of applicant.

G. 2005 Bryne Memorial Grant (JAG) Program. PUBLIC SAFETY

SUMMARY OF REQUEST: Request that the City Manager and Director of Public Safety be authorized to sign the Interlocal Agreement between the City of Muskegon, City of Muskegon Heights and the County of Muskegon for a (Justice Assistance Grant) Bryne Memorial Grant Application Number 2005-F1706-MI-DJ. The City of Muskegon has not been designated a direct single award under the (JAG) Bryne Memorial Grant for the 2005 Fiscal Year. However, an allocation has been made for a Joint Application between the County of Muskegon, City of Muskegon and the City of Muskegon Heights in the amount of \$92,167.

FINANCIAL IMPACT: The City of Muskegon will not be responsible for any match funds or outlays for this program. The Grant will provide \$92,167 to fund an assistant prosecutor position with the County Prosecutor's Office and to reinstate Project Cornerstone under the title of Project Cornerstone II.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends entering into the Interlocal Agreement with the County of Muskegon and the City of Muskegon Heights. Project Cornerstone has had a positive impact in a number of our higher crime areas in the past. It allows for prosecutor's office participation in curfew sweeps and direct involvement with the neighborhoods and neighborhood associations.

I. Public Service Building Modifications. PUBLIC WORKS

SUMMARY OF REQUEST: Phase one consists of one room being modified to make two offices to accommodate a supervisor who is now working in a temporary area. Phase two consists of constructing a new office to accommodate the consolidation of the forestry department into the Public Service Building.

FINANCIAL IMPACT: \$17,052. \$70,000 has been earmarked for capital needs at the Public Service Building in 2005.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: Recommend approval.

J. 2005 - 2006 City Commission Goals. CITY MANAGER

SUMMARY OF REQUEST: To adopt the 2005-2006 City Commission goals.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the Vision, Value and Mission statements and the 2005-2006 goals.

COMMITTEE RECOMMENDATION: The City Commission determined these goals at their annual goal setting session on January 28, 2005.

K. Accept Resignations and Make Appointments to Various Boards and Committees. CITY CLERK

SUMMARY OF REQUEST: To accept the resignation of Lynn Alrich Spearing from the Equal Opportunity Committee and Eileen Allen from the Land Reutilization Committee. To appoint Sue Thompson to the Historic District Commission; Rebecca Flowers to the Leisure Services Board; Jodi McClain to the Land Reutilization Committee; Trent Lidke to the Equal Opportunity Committee; and David Wotli to the Local Development Finance Authority.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To accept resignations and make appointments.

COMMITTEE RECOMMENDATION: The Community Relations Committee recommended the acceptance of the resignations and appointments at their March 7th meeting.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the Consent Agenda with the exception of item H.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, and Carter

Nays: None

MOTION PASSES

2005-24 ITEM REMOVED FROM THE CONSENT AGENDA:

H. Amend the Long Range Plan Submittal to Include the Downtown Development Project. ENGINEERING

SUMMARY OF REQUEST: Authorization to submit the streets within the downtown development project (Former Mall Area) to the West Michigan Shoreline

Regional Development Commission for inclusion in the Long Range Plan to ensure eligibility for possible federal funding. The streets that were identified by staff for inclusion are:

- Western Ave. between Terrace & Third
- Second St. between Morris & Clay
- First St. between Morris & Clay
- Jefferson/Market St. between Terrace & Clay

The resolution is required as part of the submittal to commit the local match if project funding is granted.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the project submittal and resolution.

Motion by Commissioner Davis, second by Vice Mayor Larson to amend the Long Range Plan Submittal to include the Downtown Development Project and to amend the plan year to 2030 instead of 2025.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis

Nays: None

MOTION PASSES

2005-25 PUBLIC HEARINGS:

A. Request for the Establishment of an Industrial Development District – Port City Industrial Finishing. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, Port City Industrial Finishing, 1867 Huizenga Avenue, Muskegon, Michigan, has requested the establishment of an Industrial Development District for property located at 1867 Huizenga, Muskegon, Michigan. The project will result in \$250,000 in private investment.

FINANCIAL IMPACT: Certain property taxes will be collected.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the resolution establishing the Industrial Development District for Port City Industrial Finishing.

The Public Hearing opened at 5:42 p.m. to hear and consider any comments from the public. No comments were heard.

Motion by Commissioner Carter, second by Vice Mayor Larson to close the Public Hearing at 5:43 p.m. and approve the resolution establishing the Industrial Development District for Port City Industrial Finishing.

ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, and Gawron

Nays: None

MOTION PASSES

B. Request for an Industrial Facilities Exemption Certificate – Port City Industrial Finishing. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Pursuant to Public Act 198 of 1974, as amended, Port City Industrial Finishing, 1867 Huizenga Avenue, has requested the issuance of an Industrial Facilities Exemption Certificate for the property located at 1867 Huizenga Street, Muskegon. The total capital investment is approximately \$250,000 in personal property. This request qualifies Port City Industrial Finishing for a 6-year exemption for personal property. Port City Industrial Finishing's current workforce is 55.

FINANCIAL IMPACT: The City will capture certain additional property taxes generated by the expansion.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the resolution granting an Industrial Facilities Exemption Certificate for a term of six (6) years for personal property.

The Public Hearing opened at 5:44 p.m. to hear and consider any comments from the public. No comments were heard.

Motion by Vice Mayor Larson, second by Commissioner Davis to close the Public Hearing at 5:46 p.m. and approve the Industrial Facilities Exemption Certificate for Port City Industrial Finishing.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, and Larson

Nays: None

MOTION PASSES

C. Create a Special Assessment District for Pine Street, Laketon to Dale. ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the proposed special assessment for Pine Street, Laketon to Dale, and to create the special assessment district and appoint two City Commissioners to the Board of Assessors if it is determined to proceed with the project.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To create the special assessment district and assign two City Commissioners to the Board of Assessors by adopting the resolution.

The Public Hearing opened at 5:46 p.m. to hear and consider any comments from the public. No comments were heard.

Motion by Commissioner Gawron, second by Commissioner Spataro to close the Public Hearing at 5:49 p.m. and approve the Special Assessment District for Pine Street, Laketon to Dale.

ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, and Shepherd

Nays: None

MOTION PASSES

Mayor Warmington and Commissioner Spataro were assigned to the Board of Assessors.

D. Create a Special Assessment District for Fifth Street, Campus to Merrill.
ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the proposed special assessment for Fifth Street, Campus to Merrill, and to create the special assessment district and appoint two City Commissioners to the Board of Assessors if it is determined to proceed with the project.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To create the special assessment district and assign two City Commissioners to the Board of Assessors by adopting the resolution.

The Public Hearing opened at 5:50 p.m. to hear and consider any comments from the public. No comments were heard.

Motion by Vice Mayor Larson, second by Commissioner Carter to close the Public Hearing at 5:53 p.m. and create the Special Assessment District for Fifth Street, Campus to Merrill.

ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, and Spataro

Nays: None

MOTION PASSES

Commissioner Shepherd and Commissioner Gawron were assigned to the Board of Assessors.

E. Taxicab Rates. CITY CLERK

SUMMARY OF REQUEST: We have received a request from Port City Cab and Yellow Cab for an increase in Taxicab fares. The last time there was a change in rates was November 10, 1998. The requested changes are as follows:

Current rates

Flag Drop: \$1.65 (first 1/10 mile)
Each 1/10 Mile \$.15 (\$1.50 per full mile)
Wait Time \$12.00 per hour

Proposed rates

Flag Drop: \$2.00 (first 1/7 mile)
Each 1/7 Mile \$.25 (\$1.75 per full mile)
Wait Time \$18.00 per hour
Out of town trips \$2.00 per mile

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval

The Public Hearing opened at 5:54 p.m. to hear and consider any comments from the public. Comments for approval were heard from Craig Hall, 1776 Division and Nell Williams, 391 Amity.

Motion by Vice Mayor Larson, second by Commissioner Shepherd to close the Public Hearing at 5:57 p.m. and grant approval of the increase in taxicab fares.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

F. Recommendation for Annual Renewal of Liquor Licenses. CITY CLERK

SUMMARY OF REQUEST: To adopt a resolution recommending non-renewal of those liquor license establishments who are in violation of Section 50-146 and 50-147 of the Code of Ordinance for the City of Muskegon. These establishments have been found to be in non-compliance with the City Code of Ordinances and renewal of their liquor licenses should not be recommended by the City Commission. If any of these establishments come into compliance by March 23, 2005, they will be removed from this resolution, and recommendation for their renewal will be forwarded to the Liquor Control Commission.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Adoption of the resolution.

The Public Hearing opened at 5:58 p.m. to hear and consider any comments from the public. Comments were heard from Sue Payne, 753 Ruddiman; and Steve Seng, 3701 E. Broadway.

Motion by Commissioner Spataro, second by Vice Mayor Larson to close the Public Hearing at 6:05 p.m. and recommend the annual renewal of liquor licenses with the exception of those listed.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, and Carter

Nays: None

MOTION PASSES

2005-26 NEW BUSINESS:

A. User Fee Adjustment - Daily Launch Ramp Fees. FINANCE

SUMMARY OF REQUEST: Staff is recommending the following adjustment to the 2005 User Fee Schedule:

Creation of a new "Fishing Tournament Launch Ramp Fee" – 2005 user fees approved last year included an increase in daily launch ramp fees from \$5 to \$10. Interested parties have expressed concern that the increase may harm sponsored fishing tournaments which bring substantial economic benefit to the community. Staff concurs with this and recommends that a special tournament fee category be established at \$5 per day. Staff recommends keeping the regular daily launch ramp fee at the \$10 level. This will help cover operating costs for the Marina and Launch Ramp fund. Also, we are trying to incentivize boaters to purchase seasonal permits in lieu of daily permits because of the enforcement problems that daily permits pose. Seasonal permit fees were not increased for 2005. We have prepared a schedule showing how Muskegon's launch ramp fees compare with other communities. Although our fees are higher than many other communities, staff believes the pricing is appropriate due to the very high-quality of our facilities and boating opportunities.

FINANCIAL IMPACT: The impact of this adjustment on City revenues will be minor and is offset by the overall local economic benefit that fishing tournaments provide.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval.

Motion by Vice Mayor Larson, second by Commissioner Davis to approve the user fee adjustment to the daily launch ramp fees.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis

Nays: None

MOTION PASSES

B. Amendment to the Wastewater System's Access Rights Agreement.

CITY MANAGER

SUMMARY OF REQUEST: To approve the first amendment to the wastewater system's Access Rights Agreement. This amendment would eliminate the "buy-in" requirements of the Access Rights Agreement.

FINANCIAL IMPACT: None anticipated.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the amendment.

Motion by Commissioner Spataro, second by Commissioner Gawron to approve the amendment to the wastewater system's Access Rights Agreement.

ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, and Gawron

Nays: None

MOTION PASSES

C. Consideration of Bids - Walton Ave., Murphy to Emerald. ENGINEERING

SUMMARY OF REQUEST: The paving as well as underground utility upgrade contract (H-1603) on Walton Avenue between Murphy St. & Emerald St. be awarded to Schultz Excavating, Inc. out of Ludington, MI. Schultz Excavating, Inc. was the lowest responsible bidder with a bid price of \$141,571.45.

FINANCIAL IMPACT: The construction cost \$141,571.45 plus engineering cost which is estimated at an additional 15%.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Award the contract to Schultz Excavating, Inc.

Motion by Vice Mayor Larson, second by Commissioner Carter to award the bid to the second lowest bidder which is Jackson-Merkey.

ROLL VOTE: Ayes: Shepherd, Warmington, Carter, and Larson

Nays: Spataro, Davis, and Gawron

MOTION PASSES

D. Liquor License Request - GFB, L.L.C., 1920 Lakeshore. CITY CLERK

SUMMARY OF REQUEST: The liquor license transfer request was approved by the City Commission on June 22, 2004, pending final inspection. The Liquor Control Commission is requiring an "unconditional" resolution in order for this to go forward.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: All departments are recommending approval.

Motion by Commissioner Spataro, second by Commissioner Gawron to approve the liquor license request for GFB, L.L.C., 1920 Lakeshore.

ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, and Shepherd

Nays: None

MOTION PASSES

E. Approval of Sale of Property: City of Muskegon Assessors Plat of Stevens Sub Division Lot 7 & East 10 Feet Lot 6. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve the sale of the parcel described as City of Muskegon Assessors Plat of Stevens Sub Division Lot 7 & East 10 Feet Lot 6 to Trinity Nonprofit Housing Development for one dollar (\$1.00). Two years ago CNS office obtained the tax reverted home from the State of Michigan. CNS demolished the blighted structure that was on the site. The City intends to quit claim the parcel to Trinity in order to assist the nonprofit in building a single family home on the site that will eliminate a financial liability of Trinity's to the City of Muskegon.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the quit claim of the property to Trinity Housing.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the sale of property City of Muskegon Assessors Plat of Stevens Sub Division Lot 7 and East 10 Feet Lot 6 to Trinity Housing Development.

ROLL VOTE: Ayes: Warmington, Carter, Davis, Gawron, Larson, Shepherd, and Spataro

Nays: None

MOTION PASSES

F. 2005-2006 CDBG/HOME Preliminary Funding Allocations. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To accept the allocation recommendation of the City's administration and the Citizen's District Council for the 2005-2006 fiscal year. After accepting the recommended allocations, the Commission is requested to make its preliminary allocation recommendation in order so the CNS office can

continue the Consolidated Plan process. The CNS office will conduct a public hearing on April 12, 2005. At that time the Commission will be asked to make their final allocations decision and to direct staff to submit the required information to the U. S. Department of Housing and Urban Development.

FINANCIAL IMPACT: Will determine the CDBG/HOME allocation for the 2005-2006 fiscal year.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To accept the recommendation of the City of Muskegon Administration and the Citizen's District Council and then make the Commissions preliminary allocation decision.

Motion by Commissioner Gawron, second by Commissioner Carter to approve the CDBG preliminary funding allocations submitted by the Muskegon administration less the funds for the Community Based Organizations and to not go above the mandated 15% of the fund and for the remainder to be split proportionately between the two CHDOS.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

G. Consideration of Proposals for Construction Engineering Services on Shoreline Drive Phase II (First to Webster). ENGINEERING

SUMMARY OF REQUEST: Authorize staff to enter into an engineering services agreement with a consulting firm to provide complete construction engineering services on the second phase of Shoreline Drive between First & Webster Ave. A recommendation along with backup information will be presented at or before the work session of March 7, 2005. This request is being presented to you in this fashion due to lack of available time since construction is scheduled to begin later this month and approval from MDOT to hire a consulting firm was not granted until February 25, 2005.

FINANCIAL IMPACT: The cost for the engineering services would be from the MDOT grant.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommendation will be presented at or before the work session meeting of March 7th.

Motion by Commissioner Spataro, second by Commissioner Gawron to approve the consideration of proposals for construction engineering services on Shoreline Drive Phase II (First to Webster) as recommended by staff.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, and

Carter

Nays: None

MOTION PASSES

2005-27 CLOSED SESSION: To discuss pending litigation.

Motion by Commissioner Gawron, second by Commissioner Shepherd to go into Closed Session at 7:25 p.m. to discuss pending litigation.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis

Nays: None

MOTION PASSES

Motion by Commissioner Shepherd, second by Commissioner Carter to come out of Closed Session at 7:56 p.m.

ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, and Gawron

Nays: None

MOTION PASSES

Motion by Commissioner Carter, second by Commissioner Shepherd to concur with the City Attorney's recommendation.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, and Larson

Nays: None

MOTION PASSES

ADJOURNMENT: The City Commission adjourned at 7:58 p.m.

Respectfully submitted,

Gail A. Kunding, MMC
City Clerk